

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 192 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SAVITRIBEN V BHATT

Versus

STATE OF GUJARAT

Appearance:

MR JR NANAVATI for Petitioner

MR NN PANDYA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/06/96

ORAL JUDGEMENT

Heard learned counsel for the parties. The only contention made by the learned counsel for the petitioner is that the respondents may be directed to give to the petitioner, actual benefit of the promotion from 2.5.60 in the category of Class I cadre. Under the Notification dated 3.5.80, the petitioner was ordered to be given deemed date of promotion in the cadre of Gujarat Education Services Class-I (V.S.) from 2.5.60, from which

date hear junior Kum. T.L. Dave was given promotion in the cadre of Class I. The petitioner made a representation to the respondent to give her actual benefits in the pay-scale of 1600-2000, but under the order dated 10.7.81, that relief has been denied. A mere perusal of the order dated 10.7.81 gives out that no reasons whatsoever were given by the respondent for not giving her actual promotion from 2.5.60 in the cadre of Gujarat Education Service Class-I (V.S). The counsel for the respondent has come up with the case that affidavit-in reply has been filed. A carbon copy of the said reply was passed over to the Court. I have gone through the said reply and I do not find any ground given for denial of actual benefits of promotion to the petitioner from 2.5.60. So far as the next promotion of the petitioner is concerned, qua, her juniors, namely Kum. T.L. Dave, Shri J.L.Rathod, Shri S.B. Rajgor and Shri M.D. Vaishnav, grounds have been given for her supersession, but not for giving actual benefits to the petitioner from 2.5.60. The petitioner has been given promotion from 2.5.60 and as such to deny her actual benefits of promotion, strong grounds are to be given which are conspicuously missing in the present case. Actual benefits of promotion could have been denied by the respondents only in the case where the case of the petitioner for promotion could have been considered qua her juniors and she would have been adjudged unsuitable, which is not the case here. It is not the case of the respondents that the service record of petitioner was not good and nor could it be the case of the respondents because she has been given deemed promotion from 2.5.60. The order which has been passed for denial of actual promotion to the petitioner from 2.5.60 is also a non speaking order. No reasons have been given whatsoever. Taking into consideration the facts and circumstances of the case, I am satisfied that the action of the respondents not to give the petitioner actual benefits of promotion from 2.5.60 in the category of Class-I in Gujarat Education Services (V.S.) is illegal and arbitrary. In the result, this Special Civil Application succeeds in part and the same is allowed. The respondents are directed to give to the petitioner, actual promotion in the cadre of Gujarat Education Services Class-I (V.S.), with effect from 2.5.60. The arrears of the fixation of pay as well as the arrears of revision of pension and retirement benefits should be determined by the respondents within a period of four months from the date of receiving the certified copy of this order. The arrears of pay fixation as well as the revision of pension and gratuity and other retirementary benefits should be paid to the petitioner within a period

of two months thereafter. Rule is made absolute in
aforesaid terms. Rest of the other claims of the
petitioner declined. No order as to costs.

.....

(sunil)